

Plaintiff on the basis of race, specifically the disparate discipline given to R. W. in reference to another actor in this matter who was a white individual who initiated the incident complained of herein, who received no discipline at all.

105. All defendants have caused the plaintiff, a child, to be excluded from participation in, denied the benefits of, and subjected to discrimination in his educational program, solely on the basis of his race, and failure to provide due process at all levels. All Plaintiffs have been injured by defendants' actions and inactions.

## **COUNT II**

### **Violation of the Civil Rights Act of 1871, 42 U.S.C. Section 1983**

106. Plaintiffs incorporate by reference all preceding paragraphs, as fully as set forth herein at length.

107. Defendants by the aforestated actions have deprived Plaintiffs of their rights to Due Process of law as guaranteed by the Fourteenth Amendment, in violation of the Civil Rights Act of 1871, 42 U.S.C. Section 1983.

108. Defendants are "person" as defined by 42 U.S.C. Section 1983.

109. At all times relevant hereto and in all of the actions described herein, all individual defendants were acting in their respective capacities as stated under

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Color of Ordinances and Regulations of the School District, statutes of the State of Delaware and statutes of the United States of America and did subject Plaintiffs herein to the deprivation of their rights, privileges and immunities secured by the United States Constitution and the aforementioned statutes by the acts and/or failure to act as described hereafter.

110. Acting under color of law, by and through a policy custom or practice, defendants intentionally, knowingly recklessly or with deliberate indifference to the rights of the plaintiffs failed to instruct, train, supervise and control on a continuing basis the procedures and policies involving due process for Alternative School Placements,

111. Acting under color of law, by and through a policy or practice, defendants intentionally, knowingly, recklessly or with deliberate indifference to the rights of the Plaintiffs failed to instruct, train, supervise and control on a continuing basis the procedures and policies regarding discipline of students thereby resulting in a disparity in the number of minority children placed in Alternative Placements and/or expulsion.

112. Acting under color of law by and through a policy or practice, defendants intentionally, knowingly, recklessly or with deliberate indifference to the rights of the Plaintiffs failed to instruct, train, supervise and control on a

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continuing basis the procedures and policies regarding deprivation of the Plaintiff's right to his education as guaranteed under the laws of the state of Delaware, the United States and the Constitution.

113. Acting under color of law, by and through a policy or practice, defendants intentionally, knowingly, recklessly or with deliberate indifference to the rights of the Plaintiffs failed to instruct, train, supervise and control on a continuing basis the procedures and policies regarding denial of Plaintiffs appeal to both the District Board of Education and the Delaware State Board of Education.

114. Acting under color of law, by and through a policy or practice, defendants intentionally, knowingly, recklessly or with deliberate indifference to the rights of the Plaintiffs conspired to deny Plaintiffs their rights under the law.

115. Defendants' conduct demonstrates a reckless and callous attitude toward the federally protected rights of the Plaintiffs as enumerated herein.

116. By failing to abide by The Civil Rights Act of 1964, Title VI, The Civil Rights Act of 1871, the Due Process and Equal Protections as provided by the Constitution of the United States of America, the defendants have caused the plaintiff, a child, to be excluded from participation in, denied the benefits of, and subjected to discrimination in his educational program, solely on the basis of his

race, and failure to provide due process at all levels. All Plaintiffs have been injured by defendants' actions and inactions.

**COUNT III**  
**Violation of Equal Protection and Due Process Rights**

117. Plaintiffs incorporate by reference all preceding paragraphs, as fully as set forth herein at length.

118. Defendants by the aforestated actions have deprived Plaintiffs of their rights to Equal Protection and Due Process of law as guaranteed by the Fourteenth Amendment, in violation of the Civil Rights Act of 1871, 42 U.S.C. Section 1983.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully requests that this Honorable Court:

- A) Find and hold that the Plaintiffs suffered acts and/or acts of omissions of Due Process and Equal Protection by the defendants;
- B) Enter an emergency, preliminary and permanent injunction under the laws of the United States enjoining all defendants to comply with said

statutes and to provide due process and equal protection;

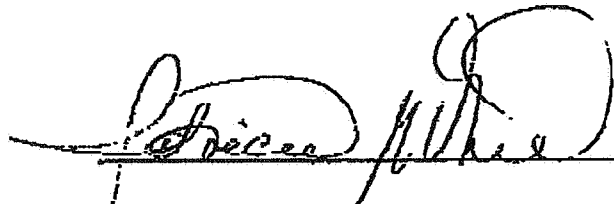
C) Enter an emergency, preliminary and permanent Injunction to the District to return the Plaintiff to his regular education school;

D) Award compensatory and punitive damages for violations of Plaintiffs' civil rights, in an amount deemed appropriate at trial;

E) Correct and purge R.W.'s school record regarding the November 8, 2004-Incident;

F) Award Plaintiffs the cost of this actions and its pursuit thereof as well as attorney fees; and

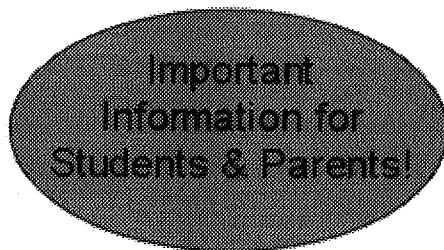
G) Award such other and further relief as may be deemed just and proper.



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Delaware Supreme Court  
Identification No: 3016  
Admitted to Delaware District Court

Date: September 12, 2005



# Student Code Of Conduct

Student Rights and Responsibilities  
Grades Kindergarten through 12  
Revised Edition, July 2004

## **APPEAL PROCESS FOR SUSPENSION (Continued)**

### **GRIEVANCE PROCEDURES**

Students and their parents/guardians as their representatives have all the rights given to every citizen by the Fifth and Fourteenth Amendments to the U.S. Constitution. Many of these rights which pertain specifically to education are defined in this document. These rights are protected through a procedure called due process.

Students and their parents/guardians are encouraged to become familiar with this due process procedure.

#### **Student Grievance**

A grievance is another name for a complaint. A student grievance exists when it is alleged that a student has been unfairly treated or has not been afforded due process.

The following persons or groups of persons may use the grievance procedure:

3. Individual students or groups of students;
3. Parents/Guardians of a student;
3. Groups of parents/guardians of students.

The grievance procedure may be used in any of the following situations:

B. Where it is alleged that any student or group of students:

0. is being denied access to an appropriate educational opportunity;
0. is being denied participation in any school activity for which the student is eligible;
0. is being denied the opportunity to compete for a position in an activity where the selection is limited;
0. is being subjected to an arbitrary or unreasonable regulation, procedure, or standard of conduct.

B. Where it is alleged that the rights of an individual student and/or a group of students are being denied or abridged.

## **GRIEVANCE PROCEDURES (Continued)**

### **Grievance Procedure**

When the grievance procedure is used these steps shall be followed:

3. The grievant is encouraged to talk with a staff member for advice.
3. The grievant shall request, in writing, a conference with the teacher or person(s) who allegedly treated the student unfairly within three (3) school days of the event.
3. Conference shall be held within four (4) school days after request.
3. If the conference does not resolve the complaint the grievant may talk with the supervisor of the staff member.
3. If the grievance is not resolved during the two meetings, the grievant may file a written grievance with the principal within three (3) school days of the conference.
3. If the principal fails to resolve the issue to the satisfaction of the grievant, the grievant will, upon request, be given a written notice by the principal within three (3) school days after the conference with the principal stating the reason(s) the problem could not be resolved.
3. If the decision at the school level is not acceptable, that decision may be appealed to the Superintendent. The appeal must be filed in writing not later than five (5) school days following the date of receipt of the principal's written decision. The Superintendent/Designee shall resolve the grievance by investigating the problem, holding conferences with the involved parties, or reviewing the written grievance record.
3. The decision of the Superintendent/Designee shall be the final decision of the school system. A copy of the Superintendent's/Designee's final decision shall be sent to all involved parties not later than ten (10) school days following receipt of the appeal by the Superintendent/Designee.



**GRADES 6-12**

**VIOLATIONS - LEVEL III**

**Expectations:** Students will observe the laws of society.

**Consequences:** When students commit violations, which endanger themselves or others or are major offenses against the school or community they are subject to severe consequences, including expulsion from school. Some illustrations of violations and resulting consequences are listed below.

**SITUATION**

**CONSEQUENCE**

**Arson**

Any act utilizing fire, smoke, or explosives which causes alarm or danger to life; and/or willful or malicious burning of school property, it's contents, or the personal property of others.

Each Offense (all of the following): 1) Parent/Guardian notification, 2) suspension for five (5) days, 3) parent/guardian conference, 4) notification of police; charges may be filed, 5) restitution/restoration, if necessary, 6) recommendation to appropriate counseling or social service agency(s), 7) possible recommendation for alternative placement or expulsion.

**Assault**

An unlawful physical attack using force upon a person resulting in physical injury.

Each Offense (all of the following): 1) Parent/Guardian notification, 2) suspension for five (5) days, 3) parent/guardian conference, 4) notification of police; charges may be filed, 5) restitution/restoration, if necessary, 6) recommendation to appropriate counseling or social service agency(s), 7) possible recommendation for alternative placement or expulsion, and 8) referral to mediation, if appropriate.

**VIOLATIONS - LEVEL III (Continued)****Computer Technology "Severe Clause"**

Situations in which a student or students deliberately tampers with, damages, alters, accesses, crashes, or corrupts the computer/communications system for a class, school, the District or the Data Service Center, resulting in the loss or corruption of information, the ability of the system to operate, or in any way disrupts or degrades the District's technology infrastructure.

Each Offense (all of the following): 1) administrative/technological investigation and assessment, 2) parent/guardian notification, 3) restoration/restitution of damages/repairs (access to technologies will be denied), 4) suspension for five (5) days, 5) notification of police, charges may be filed, 6) parent/guardian conference, 7) possible recommendation for alternative placement or expulsion.

This list is not all-inclusive. A student committing an act of misconduct, which is not listed, may be subject to disciplinary action. If a student commits an act, which constitutes a crime under Delaware Law, such student is subject to discipline, which may include expulsion.

Continued offenses after placement in an alternative program will be considered a serious breach of this Code and will result in a possible recommendation for expulsion.

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**REPORTING CRIMES**

Appropriate law enforcement officials should be notified when the school official encounters any of the following activities:

0. Evidence that suggests the commission of the crimes of assault and extortion against pupil, or an assault, offensive touching, terroristic threatening or extortion against a school employee as defined in 11 Del.C., Ch. 5 [See 11 Del.C., §§ 601, 611, 612, 613, 614, 621, and 846 (referring to 841); see also 14Del.C., §4112(b) and (f)].
0. Evidence that suggests the commission of a felony [See 11 Del. C., Ch. 5], for example:
 

<ul style="list-style-type: none"> <li>• Reckless Endangering</li> <li>• Assault offenses</li> <li>• Homicide</li> <li>• Unlawful sexual contact, penetration or intercourse</li> <li>• Sexual exploitation of children, pornography</li> <li>• Promoting prostitution</li> <li>• Burglary</li> <li>• Robbery</li> <li>• Felony Theft Offenses</li> <li>• Extortion</li> </ul>	<ul style="list-style-type: none"> <li>• Arson</li> <li>• Criminal Mischief</li> <li>• Bombs, etc.</li> <li>• Unlawful imprisonment or kidnapping</li> <li>• Offenses involving concealed deadly or destructive weapons</li> <li>• Computer/Recorded Sounds offenses</li> <li>• Fraud offenses</li> <li>• Forgery offenses</li> <li>• Riot</li> </ul>
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0. Evidence that suggests violation of the laws concerning controlled substances and alcohol [See 16 Del.C., Ch. 47 and 14 Del C., §4112(c), for example:

## CHAPTER 5: DISCIPLINARY PROCEDURES

### Assignment to Alternative Programs

Assigned to alternative programs is the placement of a student, with appropriate consideration of due process, in a program designed to meet the student's particular needs. Alternative programs may be located at the student's home school, another school site, or an alternative location.

- B. Prior to placement in an alternative program the student and the student's parents/guardians shall be conferred with about the student's need to be in the special program.
- B. Following the conference, the student and the student's parents/guardians shall be given written notice of:
  - 11. the circumstances which led to the placement;
  - 11. how the special program is designed to meet the student's needs; and
  - 11. the conditions, which must be met in order for the student to return to the regular school, program.
- B. Continued offenses after placement in an alternative program will be considered a serious breach of this Code and may result in an possible recommendation for expulsion.

**Corporal Punishment** Corporal punishment will not be administered in any Christina school.

### Bus Privileges

Students and parents/guardians have the responsibility to know and respect the rules as described in the School Bus Safety Regulations manual. The Code of Conduct will apply to all violations while boarding, riding, or exiting buses.

#### Bus Privileges (grades K-6)

Students must follow School Bus Safety Regulations as follows: 1) follow driver directions, 2) remain in seat and keep aisle clear, 3) do not throw objects in, out, or around bus, 4) NO fighting, 5) talk quietly, 6) no eating, drinking, or smoking, 7) do not damage bus property, 8) do not tamper with emergency doors, controls, or windows.

Consequences: (in progression of offenses): 1) warning, 2) temporary seat change, 3) on-bus conference with child. Driver, school administrator and parent notification, 4) on-bus conference with child, driver, school administrator, and/or permanent seat reassignment and parent notification, 5) conference with parent, child, and school administrator, 6) loss of riding privileges for one to five (1-5) days. **Severe Behavior** such as property damage, hitting driver, fire setting, and abuse of emergency equipment will result in steps five and six (5&6) being implemented by the school administrator.

### Suspension from School

Suspension is the temporary removal of a pupil from the regular school program.

Prior to a suspension from school the student shall:

- 0. be given oral or written notice of the charges and be told on what evidence the decision may be made;
- 0. be given the opportunity to present the student's side of the story; and
- 0. have had prior opportunity to know that the alleged actions were in violation of established rules and regulations.